(11) (9)

Nos. 86-1380 and 86-1424

Supreme Court, U.S.
FILED
APR 13 1987
JOSEPH F. SPANIOL, JR
CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1986

ARKANSAS PUBLIC SERVICE COMMISSION, ET AL.,
PETITIONERS

v.

FEDERAL ENERGY REGULATORY COMMISSION

ARKANSAS POWER & LIGHT COMPANY, PETITIONER

v.

FEDERAL ENERGY REGULATORY COMMISSION, ET AL.

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

SUPPLEMENTAL MEMORANDUM FOR THE FEDERAL ENERGY REGULATORY COMMISSION

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6 pp

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SUPPLEMENTAL MEMORANDUM FOR THE FEDERAL ENERGY REGULATORY COMMISSION

On March 10, 1987, we filed a memorandum in response to the two petitions for a writ of certiorari in these two cases. In that memorandum, we suggested that the Court defer disposition of the two petitions pending action by the court of appeals on three subsequently filed petitions for rehearing and suggestions for rehearing *en banc*. This supplemental memorandum is filed pursuant to Rule 22.6 of the Rules of this Court in order to advise the Court that on

April 3, 1987, the court of appeals determined that it would rehear the case *en banc*, with such rehearing to be limited to the issues raised by the dissenting opinion to the panel opinion. The order of the court of appeals is appended.

In these circumstances, we suggest that the Court defer disposition of the petitions for a writ of certiorari pending entry of a subsequent judgment by the court of appeals, sitting *en banc*.

Respectfully submitted.

CHARLES FRIED
Solicitor General

APRIL 1987

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1986

No. 85-1611

MISSISSIPPI INDUSTRIES

v.

FEDERAL ENERGY REGULATORY COMMISSION

And Consolidated Case Nos. 85-1613,
85-1615, 85-1616, 85-1617, 85-1618,
85-1619, 85-1620, 85-1621, 85-1623,
85-1624, 85-1626, 85-1637, 85-1640,
85-1647, 85-1712, 85-1719, 85-1772.

[FILED APR. 3, 1987]

BEFORE: Wald, Chief Judge; Robinson, Mikva, Edwards, Ruth B. Ginsburg, Bork, Starr, Silberman, Buckley, Williams and D.H. Ginsburg, Circuit Judges

ORDER

The suggestion for rehearing *en banc* of the City of New Orleans, Louisiana, the suggestion of Mississippi Industries, the Mississippi Attorney General and the Mississippi Public Service Commission, and the suggestion of Mississippi Power and Light Company were circulated to the full court. The taking of a vote was requested. Thereafter, a majority of the judges of the court in regular active service voted in favor of the suggestions. Upon consideration of the foregoing, it is

ORDERED, by the Court *en banc*, that these cases will be reheard by the Court sitting *en banc*, such rehearing to be limited to the issues raised by the dissenting opinion of January 6, 1987. It is

FURTHER ORDERED, by the Court *en banc*, that those parts of Section III(C)(2) of the opinion of January 6, 1987, which address the two issues raised in the dissenting opinion, specifically, pages 76 to the end of the first paragraph on page 80, and the judgment of the same date insofar as it concerns those issues, are hereby vacated. It is

FURTHER ORDERED, by the Court *en banc*, that briefs limited to the issues identified in the dissenting opinion of January 6, 1987 shall be filed in accord with the following schedule:

Petitioners' briefs (limited to 15 pages)	May 29, 1987
Brief of respondent (limited to 25 pages) and briefs of supporting intervenors, if any (limited to 10 pages)	July 30, 1987

The parties shall submit 30 copies of each brief filed. In light of the length of the briefing schedule, parties on the same side are expected to circulate drafts of their briefs and to file a joint brief, or briefs, or adopt briefs of other parties, wherever possible. The court looks with extreme disfavor upon numerous briefs presenting repetitive arguments.

The parties are further directed to submit 30 additional copies of all briefs previously filed and 15 copies of the joint appendix by May 29, 1987.

The parties will be advised by future order of the date of argument before the *en banc* court. That date will be sometime after commencement of the court's 1987 term, on September 8, 1987.

Per Curiam

FOR THE COURT:
GEORGE A. FISHER, CLERK

BY:

/s/ ROBERT A. BONNER
ROBERT A. BONNER
Chief Deputy Clerk